IN THE HIGH COUR OF UTTARANCHAL AT NAINITAL

Criminal Appeal No.100 of 2003
(Old No. 327 of 1982)

Chandra Bahadur
S/o Shri Lelepun
R/o Dai Bagh, Lipay Patti
P.S. Rolpa, District Rolpa
Nepal. ……Appellant

Versus

State of Uttar Pradesh …….Respondent.

Shri Lokendra Dobhal, learned counsel for the appellant.
Learned A.G.A. for the State.

Hon'ble Prafulla C. Pant, J.

This appeal, preferred under Section 374 (2) of Code of Criminal Procedure, 1973 (for brevity herein after referred as Cr.P.C.) is directed against the judgment and order dated 23.12.1981, passed in Sessions Trial No. 49 of 1981, by learned Sessions Judge, Dehradun, whereby appellant Chandra Bahadur, has been convicted under Section 304 (II) of Indian Penal Code, 1860 (for brevity herein after referred as I.P.C.) and sentenced to period already undergone.

2. Heard learned counsel for the parties and perused the entire record.

3. Prosecution story in brief is that in the intervening night of 1/2-4-81, at about 2:00 A.M. in the tin shed of Hari Om (P.W. 4), situated in Gorakha Bagh, P.S. Vikasnagar, District Dehradun, Chandra Bahadur (appellant) committed culpable homicide not amounting to murder of Smt. Sukumari Devi. First Information Report

(Ext. A-7) was lodged by aforesaid Hari Om. It appears that in the incident, appellant himself also received injuries in the quarrel.

4. P.W. 1 Dr. Harish Chand Purohit, has found six injuries including three incised wounds on the person of Chandra Bahadur (appellant) on 02.04.1981, at about 4:15 A.M. The trial court after recording the statements of all the prosecution witnesses, found the accused Chandra Bahadur, guilty of offence, punishable under Section 307 (II) of I.P.C.

5. Learned counsel for the appellant states that he has no instructions in this appeal. This appeal is 24 years old. Perusal of the lower court record, shows that appellant has already served out the sentence, awarded by the trail court, as he was sentenced to undergo rigorous imprisonment for a period he has already undergone. On examination of the evidence recorded by the trial court, I'am in agreement with the findings of the trial court, as to the conviction and sentence, awarded by it to the appellant.

6. Therefore, for the reasons, as discussed above, this appeal is dismissed. (All pending applications in this case also stand disposed of).

Dt.28.10.2006 **(Prafulla C. Pant, J.)**
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